

REMARKS

I. STATUS OF THE CLAIMS

Claims 1, 3-12, 14, 15, 18-20, 22-24, 27-39, and 40-41 are pending in this application.

Claims 1, 3-10, 18-20, and 39 have been allowed.

Claims 11, 12, 14, 15, 21-38 and 40-41 stand rejected.

No new matter is added by this amendment.

II. CLAIM REJECTIONS

Claims 11, 36, 40, and 41 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Claims 11, 12, 14, 15, and 21-38 are rejected under 35 U.S.C. § 103(a) as unpatentable over Dan et al (US 6,560,639; hereinafter Dan).

III. APPLICANT'S RESPONSE

A. The 35 U.S.C. § 112, first paragraph rejection

Claims 11, 36, 40, and 41 are amended to remove the phrase “rather than said content”, in order to overcome the 35 U.S.C. § 112, first paragraph rejection.

The third element of amended claim 11 now reads as follows:

a display for displaying said at least a portion of said image data on said receiving device while waiting for said ongoing file transfer to complete.

Amended claims 36, 40, and 41 have similar wording. At least paragraph [0024] in the Applicant's specification supports Claims 11, 36, 40, and 41. Paragraph [0024] reads as follows:

[0024] The utility of this is demonstrated in an exemplary scenario where a user may be receiving a relatively large file which could take some time to complete and, in the meantime, the display of the receiving device will

typically be blank while the device is occupied with the transfer. This "downtime" presents an opportunity to display graphical images on the receiving device to convey information.

B. The 35 U.S.C. § 103 rejection

Claims 11, 12, 14, 15, and 21-38 are rejected under 35 U.S.C. § 103(a) as unpatentable over Dan et al (US 6,560,639; hereinafter Dan).

The Examiner's Response to Arguments on page 2 of the Office action, reads in part as follows:

"...Dan discloses that 'Optionally, a Header & Footer Object form 205, for example, in the Object Manager 155 and/or in the Site Manager 116, as shown, by way of example, in FIG. 9, may be provided for creating, modifying, and/or deleting header and/or footer objects. **Header and footer objects may, for example, enable a user to attach content to a header, a top portion of a web page and/or to a footer, a bottom portion of a web page.** A header object may include, for example, a banner ad object 210. A footer object may include, for example, a contact information object 215.' ... (col. 17, lines 20-29)"
[The Boldface emphasis is presented in the Office action.]

The Applicant disagrees with the Examiner's rationale and objects to the Examiner's erroneous characterization of the Dan reference. However, to advance the prosecution of the application, the Applicant is amending independent claims 11, 24, 29, 35, 35-38 to at least include the recitation: "wherein at least one of said packets comprises a header portion and said at least a portion of the image data is transmitted in the header portion".

Thus, independent claims 11, 24, 29, 35, 36, 37, and 38 and their dependent claims 12, 14, 15, 21-23, 25-28, and 30-34 should be allowable over the Dan, et al. reference.

AUTHORIZATION

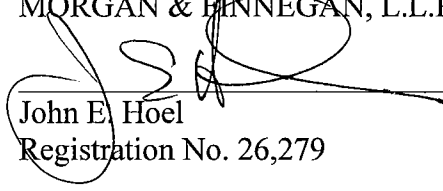
The Commissioner is hereby authorized to charge any additional fees which may be required by this response, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4208-4066.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4208-4066.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: March 5, 2008

By:


John E. Hoel
Registration No. 26,279

Correspondence Address:

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile